

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513**

Mailed: November 24, 2003

Applicant: Yamaha Hatsudoki Kabushiki Kaisha
Serial No.: 78135419
Filed: 06/13/2002
Mark: RMAX

GAIL L. WEIL
RE/MAX INTERNATIONAL, INC.
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Jyll S. Taylor, Attorney:

In a letter dated August 20, 2003, the Board denied potential opposer's, RE/MAX International Inc.'s ("RE/MAX"), request for extension of time to oppose, filed "August 8, 2003" against application Serial No. 78/135419, because the request was not timely filed. Consequently, in a letter dated September 24, 2003, the Board dismissed Opposition No. 91157722, involving application Serial No. 78/135419, as a nullity - noting that the RE/MAX's opposition filed September 3, 2003 should never have been instituted.¹

On October 10, 2003, potential opposer filed a request for reconsideration of the Board denial's of its second request for a thirty-day extension of time to oppose and for reinstatement of its notice of opposition filed September 3, 2003. As grounds therefor, RE/MAX argues that the certificate of mailing that accompanied its second request for extension contained an inadvertent error in the date.

As evidentiary support for the request, RE/MAX submitted the declaration of Theresa L. VanDerhoof, an assistant to potential opposer. In her declaration, Ms. VanDerhoof attests that she assisted in the preparation of the second request for extension of time to file a notice of

¹ The opposition papers were returned to the Finance Branch of the Office for consideration of a refund of the \$300 opposition fee.

opposition; that she inadvertently entered "8th", instead of "4th", on the certificate of mailing - thinking of the 8th month of August; that although she dated the certificate of mailing as "8-4-03" on the date line, she inadvertently entered "8th" instead of "4th" on the first line of the certificate of mailing for the letter of transmittal.

RE/MAX also included a copy of the return postcard submitted with the second request for extension which shows the mailing date of "8/4/03" as the mailing date of the transmittal and extension request. Notably, the second request to extend was received by the Office on August 8, 2003 and, thus, could not have been mailed on that date.

Based on the foregoing, the Board finds RE/MAX's arguments well taken and its motion for reconsideration is granted. Accordingly, the Board's August 20 action denying the request for an extension filed August 4, 2003 is vacated and said request is granted. RE/MAX's notice of opposition, filed September 3, 2003, is considered timely filed and Opposition No. 91157722 is reinstated on the condition that no later than **TWENTY-FIVE DAYS** from the mailing date of this letter, RE/MAX resubmit the returned \$300 opposition fee. If the fee is not submitted within twenty-five days, no further consideration will be given to the notice of opposition.

Discovery and trial dates will be reset upon payment of the opposition fee.